

Reply Commentary Addendum
In the matter of Petition for Rulemaking RM-11306

To The Commission:

Please accept this Addendum to the Reply Comments filed by myself on February 22, 2006¹ (hereinafter “my Reply Comments”), to present for the public record further facts that I believe are pertinent to these proceedings which were not included in my Reply Comments, and to clarify some portions of my Reply Comments.

1. In my Reply Comments, I have already raised the issue of viability of self-policing under the regulatory scheme proposed in RM-11306 (hereinafter “The Petition”)². The specific passages I would like to address in further detail are the statements by ARRL, Inc. (hereinafter, “The Petitioners”) in their Reply Comments (hereinafter, “Petitioners’ Reply Comments”) that “...there is no reason to believe that the level of voluntary cooperation in the use of shared allocations, which is now better than in virtually all other radio services, will markedly deteriorate...”³, and that “[t]o the extent that the success of this philosophy necessitates the participation and cooperation of all Amateurs in the development of, and increased reliance on, modernized voluntary band plans, ARRL is optimistic that such participation and cooperation will be available, *as it*

¹ http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6518329488

² My Reply Comments at 7

³ Petitioners’ Reply Comments, at 6

always has been in the past in similar transitional phases of the history of the Amateur Radio Service”⁴ (emphasis added).

2. Bearing the aforementioned statements in mind, I would like to remind The Commission (and through The Commission, The Petitioners themselves) that The Petitioners have previously filed statements, comments, and at least one Request for Declaratory Ruling which assert the exact opposite to be true⁵. With no attempt or desire to denigrate or call into question Mr. Imlay’s character, I also respectfully remind all parties that Mr. Imlay himself was general counsel for The Petitioners at the time these assertions were made, as he is now.

3. Specifically, in The Petitioners’ Request for Declaratory Ruling filed April 3, 1998, which triggered proceeding RM-9259⁶ (hereinafter, “Petitioners’ RDR”), The Petitioners stated for the public record that “[a] committee of the League’s Board of Directors has recently reviewed the level of voluntary compliance with band plans in various amateur allocations, including MF and HF bands, and has concluded that there has been some notable deterioration in adherence to the plans”⁷.

⁴ Petitioners’ Reply Comments, at 7

⁵ Request for Declaratory Ruling, RM-9259

⁶ http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=2042690001

⁷ Petitioners’ RDR, at 16

4. Later in the same proceeding, The Petitioners filed Reply Comments⁸ (hereinafter “Petitioners’ RM-9259 Reply Comments”), stating that “the League’s Board, and committees of its Board, determined as a matter of fact that the level of voluntary compliance with band plans is eroding somewhat, and that circumstance leads to increased incidents of interference, and to increased calls upon the Commission for enforcement actions”⁹.

5. Even considering the passage of time between RM-9259 and RM-11306, this represents a dubious bipolarity of opinion by The Petitioners. If The Petitioners believed in 1998 that adherence to voluntary band plans was eroding to the extent that a Declaratory Ruling by The Commission was necessary, it is alarming that The Petitioners now consider said adherence to be “better than virtually all other radio services”; particularly considering that RM-9259 was *not* adopted by The Commission, rendering The Petitioners’ praise of the Commission’s Special Counsel for Amateur Radio Enforcement¹⁰ irrelevant, as The Commission does not enforce voluntary band plans. Equally alarming is The Petitioners’ sudden about-face in asserting that adherence to voluntary plans will be “available, as it always has been in the past”. If The Petitioners honestly held this view, it is curious, to say the least, that The Petitioners’ RDR was ever filed in the first place. Once again, The Petitioners have displayed an all-too-prevalent tendency to present mutually contradicting “facts” to suit whatever argument they choose to make from one proceeding to the next.

⁸ http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=2082900001

⁹ Petitioners’ RM-9259 Reply Comments, at 5

¹⁰ Petitioners’ Reply Comments, at 6

6. Given the above self-contradictory statements by The Petitioners, I will again respectfully request that The Commission DENY The Petition; furthermore, somewhat contrary to my Reply Comments, additionally request that this denial be a denial *with prejudice*, such that The Commission, and the Amateur Service, not be made to suffer with this overwhelmingly opposed proposal yet again.

It is for these reasons I respectfully submit this Addendum to my Reply Comments.

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